

UNITED STATES DISTRICT COURT EASTERN DISTRICT
OF CHATTANOOGA, TENNESSEE

FILED

JAN 11 2022

Clerk, U. S. District Court
Eastern District of Tennessee
At Chattanooga

DOUGLAS A DYER

Petitioner

V.

Civ. A. No 1:21-cv-299

MICHELLE FULGAM, in her capacity

As Acting Manager of the Nashville, TN

RRM, with responsibility of the

Chattanooga, Tn Halfway House

Respondent

VERIFIED PETITION FOR A WRIT OF HABEAS CORPUS

UNDER 28 U.S.C. 2241 EMERGENCY

AMENDMENT

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Your Honor, I apologize to this court for filing this Emergency Amendment to my Habeas Petition and 2241 Motion. However, it has just come to my attention that on January 5, 2022 The Federal Bureau of Prisons issued a Memo that has been posted at several Federal Prison Camps. This Memo was partially posted in an article in Forbes magazine January 5, 2022 :

<https://www.forbes.com/sites/walterpavlo/2022/01/05/implementation-of-the-criminal-justice-reform-law-first-step-act-will-likely-end-up-in-court/?sh=b87c46628f4f>

The Memo states :

Talking Points - FSA Implementation

Under the First Step Act of 2018 (FSA), eligible inmates may earn Federal Time Credit (FTC) for successful participation in Evidence-Based Recidivism Programs and Productive Activities.

*Inmates are now eligible to earn FTC **retroactively back to December 21, 2018**; this award will be based on criteria established by BOP.*

FTC is not earned while the inmate was or is in SHU, outside the facility (e.g. writ, outside hospital, etc), or in FRP Refuse.

Beginning in January 2022, the Bureau will begin applying FTC under this update.

While inmates with High and Medium PATTERN risk levels are eligible to earn FTC, only those with Low and Minimum levels are eligible to apply them.

Additionally, the following inmates are ineligible for FTC:

- *Federal inmates in state custody*
- *State boarders in BOP custody*
- *DC Superior Court inmates*
- *Military code inmates*
- *Old Law/Parole inmates*

Inmates must have a Supervised Release term following their incarceration in order for FTC to be applied toward their release. Inmates without Supervised Release are eligible to apply credits toward Residential Reentry Center (RRC) and home confinement (HC).

If eligible, all time credits up to 365 days may be applied toward an inmate's release. Any FTC earned beyond that may be applied toward community placement.

*We expect it to take several weeks to update all necessary sentence computations, **DSCC will prioritize based on those inmates we project to be immediate releases, beginning with inmates in community placement.** As sentence computations are completed, unit management staff will advise inmates of their status, develop release plans, and prepare release and/or RRC/HC referral paperwork. Development of quality release plans will require the involvement and cooperation of the individual inmate.*

RRC/HC referrals will be for no less than 30 days and inmates must otherwise be eligible for RRC placement. Inmates requiring a relocation of their supervised Release will require an approved release plan prior to submission of the RRC referral.

Notwithstanding the ruling of this court, I respectfully request that this court immediately order the BOP to apply My Earned Time Credits that I have lawfully earned since December 21, 2018 and this Court immediately order my move from Home Confinement to Supervised Release.

As the BOP has continued to stall by every means at their disposal including giving me no answer from my BP-9, BP-10 and BP-11. As of this date I have received ZERO response from my BP-10 and BP-11 after over 100 days ?

Congress has made clear their intent and the proper interpretation of the First Step Act Earned Time Credits and those interpretations align 100% to the interpretations set forth in my Motion.

Just last week after Senator Dick Durbin, the author and sponsor of The First Step Act demand the firing of BOP director Carvajal, with one of the reasons being the Director's delay in implementing the First Step Act after Congress had allocated \$120,000,000 since 2018 to the BOP to implement. Director Carvajal "resigned" before Congress had a chance to have him fired.

After the release of this BOP Memo there can be absolutely no legitimate argument from the BOP to NOT award me my Earned Time Credits IMMEDIATELY. In fact, I should be compensated for the days I have been illegally incarcerated.

Again, your honor I respectfully request the immediate move from Home Confinement to Supervised Release based on the Earned Time Credits that I have lawfully earned.

Respectfully Submitted,

Douglas A. Dyer #52293-074

January 10, 2022